IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal NO.465 OF 2004.

The State of Maharashtra ..Appellant

Versus

Nivrutti Bapu Patil ..Respondent

Mr.V.B.Kondedeshmukh for the appellant
APP for the State.
None for the respondent though served.

CORAM: SMT.V.K.TAHILRAMANI, J.

DATE : 2nd August, 2005

P.C.

1. The Appellant-State of Maharashtra has preferred this Appeal against the Judgment and Order of the learned J.M.F.C. Kagal in Reg CC.No.89 of 2000. By the said judgment and order the learned Magistrate acquitted the Respondent-Original accused of the offences under Section 324 and 504 of I.P.C.

2. Heard ld. APP for the State. Perused the record and the judgment and order passed by the learned Magistrate. After carefully considering the matter, in my view no case is made out for interference.

3. In the present case, three eye witnesses have been examined i.e. Complainant P.W.1. Baliram Patil, his wife P.W.2.Rukhmini Patil and P.W.3 Bharat Sawant, who is an independent witness. The house of the

complainant and the accused are opposite to one another. The complainant had kept heap of stones infront of his house and the accused had kept heap of soil infront of his house. On 11.11.2000 at about 5.00p.m. the servants from Gram Panchayat were cleaning the road. They removed the heap of soil infront of the house of the accused and they started to remove the stones infront of the house of the complainant. The complainant told the workers of the Gram Panchayat that he would remove the stones on the next day. However, the accused told him that he should remove the stones immediately. It is the prosecution case that at that time the accused gave a blow with a stick on the head of the complainant. The Complainant's wife Rukhmini, intervened at that time. Thereafter, a complaint came to be lodged. The complainant and his wife have stated as above in their deposition. However, it is pertinent to note that P.W.3. Bharat Sawant, who was working with the Gram Panchayat and who went to the spot to remove the soil and stones has stated that when they removed the soil and stones, at that time nothing happened there. So far as P.W.2. Rukhmini is concerned, she is highly interested witness and in such case it may be not be safe to rely on the testimony of this witness. So far as the evidence of the complainant is concerned, his evidence is completely belied by the evidence of P.W.3. Bharat Sawant, who is an independent witness. In such a case, it would not be safe to rely on the testimony

of the complainant.

4. Moreover, it is seen that the medical certificate of the complainant i.e. Exhibit 32 does not mention the nature of the weapon nor does it mention that the injury was caused due to hard and blunt object. In the present case though the prosecution claims to have recovered the stick at the instance of the accused, the witness relating to seizure panchanama of the stick has not supported the prosecution. All these aspects also make the prosecution case weak.

5. All these aspects have been taken into consideration by the learned Magistrate while acquitting the accused. Looking to the evidence on record, I find that the view taken by the learned Magistrate is a reasonable and possible view.

6. It is well settled that if the view of acquittal could have been reasonably arrived at then the mere circumstance that the appellate court would have taken a different view would be no ground to interfere. In this connection there is no dearth of authorities but to eschew prolixity I am only refering to two of them viz. AIR 1971 S.C. p.66 (Khedu Mohton and ors. Vs. State of Bihar) and C.Anthony Vs. K.G.Raghavan Nair reported in (2003) SCC. In the case of C. Anthony the Supreme Court has observed that

unless the findings of trial Court are perverse or contrary to the material on record, the High Court cannot, in appeal, substitute its finding merely because another contrary opinion was possible on the basis of the material on record.

7. As already observed by me, the view taken by the learned Sessions Judge is reasonable and possible view. In this view of the matter, no interference is called for. Appeal is dismissed.

(V.K.Tahilramani, J.)